

ASSEMBLY BILL

No. 1113

Introduced by Assembly Member Yee

February 22, 2005

An act to amend Sections 4927 and 4937 of the Business and Professions Code, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

AB 1113, as introduced, Yee. Acupuncturists: scope of practice: diagnosis.

The Acupuncture Licensure Act provides for the licensure and regulation of acupuncturists by the Acupuncture Board. The act authorizes a licensee to practice acupuncture, as defined, and to perform or prescribe the use of oriental massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to provide, maintain, and restore health. Existing law makes it a crime to practice acupuncture without a license.

This bill would include in the definition of acupuncture the diagnosis of a person for the purpose of providing acupuncture treatment. The bill would also authorize a licensee to diagnose for the use of performing or prescribing the use of oriental massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to promote, maintain, and restore health.

By expanding the definition of acupuncture, the unauthorized practice of which is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4927 of the Business and Professions
2 Code is amended to read:

3 4927. As used in this chapter, unless the context otherwise
4 requires:

5 (a) “Board” means the Acupuncture ~~“Board”~~; *Board*.

6 (b) “Person” means any individual, organization, or corporate
7 body, except that only individuals may be licensed under this
8 chapter.

9 (c) “Acupuncturist” means an individual to whom a license
10 has been issued to practice acupuncture pursuant to this chapter,
11 which is in effect and is not suspended or revoked.

12 (d) “Acupuncture” means the stimulation of a certain point or
13 points on or near the surface of the body by the insertion of
14 needles to prevent or modify the perception of pain or to
15 normalize physiological functions, including pain control, for the
16 treatment of certain diseases or dysfunctions of the body and
17 includes the techniques of electroacupuncture, cupping, and
18 moxibustion. *“Acupuncture” includes the diagnosis of a person
19 for the purpose of providing acupuncture treatment.*

20 SEC. 2. Section 4937 of the Business and Professions Code is
21 amended to read:

22 4937. An acupuncturist’s license authorizes the holder
23 thereof:

24 (a) To engage in the practice of acupuncture.

25 (b) To *diagnose for the purposes of, and to perform or*
26 prescribe the use of, oriental massage, acupressure, breathing
27 techniques, exercise, heat, cold, magnets, nutrition, diet, herbs,
28 plant, animal, and mineral products, and dietary supplements to
29 promote, maintain, and restore health. Nothing in this section
30 prohibits any person who does not possess an acupuncturist’s
31 license or another license as a healing arts practitioner from

1 performing, or prescribing the use of any modality listed in this
2 subdivision.

3 (c) For purposes of this section, a “magnet” means a mineral
4 or metal that produces a magnetic field without the application of
5 an electric current.

6 (d) For purposes of this section, “plant, animal, and mineral
7 products” means naturally occurring substances of plant, animal,
8 or mineral origin, except that it does not include synthetic
9 compounds, controlled substances or dangerous drugs as defined
10 in Sections 4021 and 4022, or a controlled substance listed in
11 Chapter 2 (commencing with Section 11053) of Division 10 of
12 the Health and Safety Code.

13 (e) For purposes of this section, “dietary supplement” has the
14 same meaning as defined in subsection (ff) of Section 321 of
15 Title 21 of the United States Code, except that dietary
16 supplement does not include controlled substances or dangerous
17 drugs as defined in Section 4021 or 4022, or a controlled
18 substance listed in Chapter 2 (commencing with Section 11053)
19 of Division 10 of the Health and Safety Code.

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the
25 penalty for a crime or infraction, within the meaning of Section
26 17556 of the Government Code, or changes the definition of a
27 crime within the meaning of Section 6 of Article XIII B of the
28 California Constitution.